

REMARKS

These remarks are made in response to the Final Office Action dated June 16, 2005 and are requested to be considered in conjunction with filing of an RCE herewith. In the Final Office Action, the Examiner rejected claims 1-16, 19-22, and 26-41 under 35 U.S.C. § 102(e) as being anticipated by Milton et al., U.S. Publication No. 2003/0117433 (hereinafter Milton). Claims 17-18, 23-25, and 42-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Milton*.

No claim amendments are made herein. Accordingly, claims 1-44 remain pending in the application. For the reasons set forth below, the Applicants respectfully request reconsideration and allowance of all pending claims.

Traversal of the Rejection of Claims under 35 U.S.C. § 102 and § 103

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the claim." M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Claims 1-16, 19-22, and 26-41 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Milton*. In order to support a 35 U.S.C. § 102(e) rejection, the reference must be a proper 35 U.S.C. § 102(e) reference.

In a response filed on February 7, 2005, the Applicants submitted a 37 C.F.R. §1.131 declaration and provided documented evidence of conception prior to the filing date (November 9, 2001) of the *Milton* reference. However, since the evidence had redacted dates, the Examiner identified that the evidence was insufficient to show due diligence existed from the date of conception before November 9, 2001, to the constructive reduction to practice occurring on November 20, 2001 (the filing date of the present application). In view of this deficiency, a new 37 C.F.R. §1.131 declaration by the inventors is attached hereto, wherein the dates in the prior exhibits are now shown

in unredacted form. In addition a separate 37 C.F.R. §1.131 declaration by the undersigned attorney is provided to further bolster evidence of dates of conception and due diligence in reduction to practice.

In accordance with Intel's practices at the time of the inventions, inventors submitted invention disclosure forms (IDFs) to their supervisors for review. Once approved by a supervisor, the IDFs were submitted to the Intel patent database group to be considered for filing (a corresponding application) during a next (typically) patent committee meeting for the applicable technology group. As evidenced by the timestamps, IDF 20283 (Exhibit A) was received by the Intel patent database group on June 29, 2001, and IDF 20573 (Exhibit B) was received by the Intel patent database group on July 16, 2001. Sometime during the August-early September timeframe, a committee meeting was held during which IDFs 20283 and 20573 were approved for filing in a combined application. Subsequently, IDF 21887 (Exhibit C) was submitted, and received by the Intel patent database group on September 21, 2001. This IDF was provided to the committee chairperson, who approved adding the subject matter of the IDF to the previously-approved application covering the subject matter of IDFs 20283 and 20573. Thus, the present application includes subject matter disclosed in each of IDFs 20283, 20573, and 21887.

In addition to what was disclosed in the IDFs, further details of the subject matter disclosed in the present application were provided during the invention disclosure meeting of October 5, 2001. For this reason, there may be subject matter that was not included in the IDFs but was included in the filed application. Notably, however, Exhibit F, which was written in tangible form on October 30, 2001 at the latest, provides irrefutable proof that conception of the entirety of the claimed subject matter of the present application occurred prior to November 9, 2001. Furthermore, the claimed subject matter was constructively reduced to practice on November 20, 2001 in view of the filing date of the present application.

The Applicants respectfully assert that the *Milton* reference (U.S. Publication No. 2003/0117433) does not qualify as a §102(e) reference in view of the 37 C.F.R. §1.131 declarations and accompanying exhibits attached hereto. Accordingly, the current §102(e) rejection of pending claims 1-16, 19-22, and 26-41 cannot be supported for at least this reason, and thus must be withdrawn.

Claims 17-18, 23-25, and 42-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Milton*. In order to support a 35 U.S.C. § 103(a) obviousness rejection, all references must be proper 35 U.S.C. § 102 references. Since the sole reference (*Milton*, U.S. Publication No. 2003/0117433) does not qualify as a proper reference under 35 U.S.C. § 102, as asserted above, a rejection of claims 17-18, 23-25, and 42-44 as being unpatentable over *Milton* is improper, and thus must be withdrawn.

If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

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